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Docket No. 75723-ZA/JPW/GJG/CS

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: David Baltimore et al.  
Serial No.: 10/037,341 Examiner: D. Guzo  
Filed : January 4, 2002 Group Art Unit: 1636  
For : NUCLEAR FACTORS ASSOCIATED WITH TRANSCRIPTIONAL  
REGULATION

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February 6, 2009

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SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT

In accordance with their duty of disclosure under 37 C.F.R. §1.56, Applicants direct the Examiner's attention to the following disclosures, which are also listed on the attached substitute Form PTO-1449 (**Exhibit A**).

The subject application is a continuation under 35 U.S.C. § 120 of U.S. Application No. 08/464,364, filed June 5, 1995, now U.S. Patent No. 6,410,516, issued June 25, 2002, now undergoing reexamination under Control Nos. 90/007,503 and 90/007,828 which have been previously disclosed and brought to the Examiner's attention in the subject application.

Applicants note that items 1-3 listed herein are part of the merged *Ex Parte* Reexamination Control Nos. 90/007,503 and 90/007,828. Items 4-6 listed herein are part of a concurrent litigation captioned *Amgen Inc., et al. v. ARIAD*

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*Pharmaceuticals, Inc., et al.* Items 7-12 are part of a concurrent litigation captioned *ARIAD Pharmaceuticals, Inc., et al., v. Eli Lilly and Company*. The merged reexamination and the concurrent litigation proceedings involve U.S. Patent No. 6,410,516, which issued from a parent of the subject application.

All disclosures are readily available to the Examiner and to the public from the file history of U.S. Patent No. 6,410,516 and its merged reexamination proceeding (*Ex Parte* Reexamination Control Nos. 90/007,503, filed April 4, 2005; and 90/007,828, filed December 2, 2005). Accordingly, copies of items 1-12 are not enclosed.

The Examiner is respectfully requested to make the items of record in the subject application by initialing and dating the attached substitute Form PTO-1449, and returning a copy of the initialed and dated form to Applicants' undersigned attorneys.

1. Response to October 16, 2008 Final Office Action, Summary of December 2, 2008 Examiner Interview, and Statement of Concurrent Proceedings Under 37 C.F.R. § 1.565, filed January 26, 2009 in Merged Reexamination Control Nos. 90/007,503 and 90/007,828;
2. Third Declaration of Dr. Inder Verma, dated January 26, 2009;
3. Final Office Action issued October 16, 2008 in Merged Reexamination Control Nos. 90/007,503 and 90/007,828;
4. Brief for Appellants, *ARIAD*, filed December 16, 2008 in the concurrent litigation captioned *Amgen Inc., et al. v. ARIAD Pharmaceuticals, Inc., et al.*, U.S. Court of Appeals for the Federal Circuit, Docket No. 2009-1023;

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5. Joint Claim Construction Chart, filed in the concurrent litigation captioned *Amgen Inc., et al. v. ARIAD Pharmaceuticals, Inc., et al.*, U.S. District Court for the District of Delaware, CA No. 06-259(MPT);
6. Deposition Transcript of Randolph Wall, Ph.D., pages 149-152, in the concurrent litigation captioned *Amgen Inc., et al. v. ARIAD Pharmaceuticals, Inc., et al.*, U.S. District Court for the District of Delaware, CA No. 06-259(MPT);
7. ARIAD's Reply in Support of Motion to Strike Extra-Record Materials From the Joint Appendix, filed January 21, 2009 in the concurrent litigation captioned *ARIAD Pharmaceuticals, Inc., et al. v. Eli Lilly and Company*, U.S. Court of Appeals for the Federal Circuit, Docket No. 2008-1248;
8. Lilly's Opposition to ARIAD's Motion to Strike Materials From the Joint Appendix, filed January 9, 2009 in the concurrent litigation captioned *ARIAD Pharmaceuticals, Inc., et al. v. Eli Lilly and Company*, U.S. Court of Appeals for the Federal Circuit, Docket No. 2008-1248;
9. Motion of Plaintiffs-Appellees, ARIAD, to Strike Extra-Record Materials From the Joint Appendix, filed December 23, 2008 in the concurrent litigation captioned *ARIAD Pharmaceuticals, Inc., et al. v. Eli Lilly and Company*, U.S. Court of Appeals for the Federal Circuit, Docket No. 2008-1248;
10. Reply Brief on Defendant-Appellant Eli Lilly and Company, filed November 12, 2008 in the concurrent litigation captioned *ARIAD Pharmaceuticals, Inc., et al. v. Eli Lilly and Company*, U.S. Court of Appeals for the Federal Circuit, Docket No. 2008-1248;

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11. Questions to the Jury on Special Verdict, dated April 28, 2006, in the concurrent litigation captioned *ARIAD Pharmaceuticals, Inc., et al. v. Eli Lilly & Co.*, U.S. District Court for the District of Massachusetts, CA No. 02-CV-11280-RWZ; and
12. Defendant Eli Lilly and Company's Motion in Limine to Exclude Adding Claim Limitations and Expert Testimony That Offers Construction of Claim Terms Inconsistent With the Court's Construction, filed February 24, 2006 in the concurrent litigation captioned *ARIAD Pharmaceuticals, Inc., et al. v. Eli Lilly & Co.*, U.S. District Court for the District of Massachusetts, CA No. 02-CV-11280-RWZ.

Item 1 was filed January 26, 2009 in connection with merged *Ex Parte* Reexamination Control Nos. 90/007,503 and 90/007,828.

Item 2 was previously disclosed as Exhibit 3 in RESPONSE TO OCTOBER 16, 2008 FINAL OFFICE ACTION, SUMMARY OF DECEMBER 2, 2008 EXAMINER INTERVIEW, AND STATEMENT OF CONCURRENT PROCEEDINGS UNDER 37 C.F.R. § 1.565, filed January 26, 2009, in connection with merged *Ex Parte* Reexamination Control Nos. 90/007,503 and 90/007,828.

Item 3 was issued October 16, 2008 in connection with merged *Ex Parte* Reexamination Control Nos. 90/007,503 and 90/007,828.

Items 4-9 and 11-12 were previously disclosed in SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT, filed January 26, 2009, in connection with merged *Ex Parte* Reexamination Control Nos. 90/007,503 and 90/007,828.

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Item 10 was previously disclosed in SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT, filed February 6, 2009, in connection with merged *Ex Parte* Reexamination Control Nos. 90/007,503 and 90/007,828.

If a telephone interview would be of assistance in advancing prosecution of the subject application, Applicants' undersigned attorneys invite the Examiner to telephone them at the number provided below.

No fee is deemed necessary in connection with filing this Supplemental Information Disclosure Statement. However, if any other fee is required, authorization is hereby given to charge the additional amount of any such fee to Deposit Account No. 03-3125.

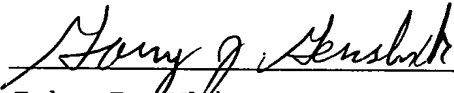
Respectfully submitted,

I hereby certify that this correspondence is being deposited this date with the U.S. Postal Service with sufficient postage as first class mail in an envelope addressed to:

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# **EXHIBIT A**

## **of Supplemental Information Disclosure Statement**

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